

G.R.S. IX-5]

Previous references.

1922.

cto)

File No. 177-22

Serial Nos. 1-4.

Later references.

preserve

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. *Four*.

Part B. for

May 1923.

SUBJECT

*Revised rules for regulating the practice
of the Civil Courts in the matter of
calculating the duration of case.*

8/4/

To the Registrar, Chief Court.

n o. p 11185 of 28.5.23.

*Sanctions the revised rules
proposed by the Chief Court.*

Printed on the Multigraph.

*In Naiger Muran
8/6/23*

41525
10

GENERAL AND REVENUE SECRETARIAT.

(45)

NOTES.

File No. 67-22

FILE HEADING.

Agenda to Civil Rules of Practice in 28
Calculation of the duration of cases

From

His Highness the Chief Justice

No. C 1064
22-23

Dated

3. 3. 23

Received

6.3.23

Diary No.

45-25

Enclos.

Spare Copies.

Serial No.

1

BRIEF ABSTRACT OF LETTER.

Referring to the reasons explained
that sanction be accorded to the issue of the
proposed rules of practice (Civil) in 28
of the duration of cases.

NOTES AND ORDERS.

has with a draft of the proposed
rules

copy
8/3/23
10/3

Encl.

23
4/3

he

Lr to member

26.3.23

6397

27/3

NOTES—First Sheet.

The practice in practice under magistrates
is uniform. The most uniform in 27.3
such matters for purposes of comparison

he
31.3.23
29/3

Serial
No.

2

Graph method

Cecy
4/4/23
for
4/4

Issue

Cecy
17/4

In

the Western, etc. etc.

no. p. 10284 9/8.4.23

Ascertains the practice prevailing
in British India

3

delta no. R. O. C. 1064/22-23 21.4.23
from the Rep. Chief Commr. stating in
ref to S.C. (2) the practice prevailing
in Bengal & Madras & that no info
is available re other provinces
also with ref to members
minutes on the previous page

Cecy

23/4/23

for
18/5/24

The Bengal method
is perhaps the correct one
so far as Courts are concerned.

Madras method calculates the
whole time, from start to
finish. The proposed rule adopts Bengal
(2nd member) -

776
27.4.23

Cecy
27.4

All right - the proposed 2
but brief case may be appd.

for

17/5

Put into a draft

18/5/23
for
27/5

Issue

Cecy
27/5

576

to the Hon. Secy
G.O. no. 11185 9/28.5.23
Sanctioning the
revised rules

32637

9 4525
P

CHIEF COURT OF MYSORE

Telegraphic }
Address. } "JUSTICE"

Bangalore, dated 3rd March 1923.

C No. 1064
ms
45197-22

FROM

A. SREENIVASARAGAVACHARI, Esq., B.A., B.L.,
Registrar, Chief Court of Mysore.

5 MAR 1923

TO

G. ARAVAMUDU IYENGAR, Esq., B.A., B.L.,
General Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

SIR,

I am directed to state that at present (under Rules of Practice (Civil) No.79 dated 24th December 1889 and No.86 dated 26th March 1896) suits once dismissed for default or decreed ex parte and subsequently restored or revived, and suits remanded for redecision, are treated, for purposes of calculating duration, as pending from the date of their original institution and not from the date of restoration or remand.

2. It is no doubt quite right to reckon the date of institution as the starting point in all cases; but it does not -- seem reasonable to include within the period of pendency the time (often several years) during which the Court has ceased to have cognisance of the suit. Where a suit is once disposed of, ex parte or otherwise, then, in so far as the trial court is concerned, the proceedings must be said to have terminated then. And that court ought not to be held responsible for the time and delay subsequently entailed either in preferring an appeal to a higher court with a view to obtain a remand of the suit or in filing an application to the same Court in order to get the suit restored or revived. In other words, the interval between the first disposal and subsequent revival of pro-

proceedings or remand should, in fairness, be excluded in computing the average duration.

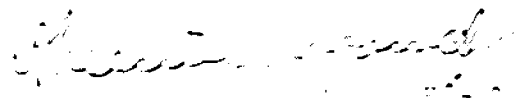
3. It is possible that, if only the date of restoration or remand is to be reckoned as the date of institution, it may lead to hasty disposals on the part of presiding officers with a view to show greater disposals of old suits; but, if, as is now proposed, only the interval during which the proceedings are suspended is excluded in calculating -- average duration, (the date of institution still being the date on which the plaint is presented) there is no reason -- whatsoever to apprehend any such evil consequences.

4. I am to add, that opportunity has been taken to recast and re-arrange into one comprehensive Rule of Practice the several rules of Practice, Circular Letters, etc., issued from time to time on the subject, which owing to their having been issued at different times, over-lap and do not harmonise with one another, and to request that Government may be pleased to accord sanction to the accompanying Rule of Practice proposed to be issued by the Chief Court in the matter.

I have the honor to be,

S i r,

Your most obedient servant,


R E G I S T R A R. 7/3/2

TLN/2



recd 5/1

(5)

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

C I V I L S I D E.

Rule of Practice No.

dated 1st March 1923.

The Chief Court issues the following rules for regulating the Practice of Civil Courts in the matter of calculating the duration of cases, in supersession of the marginally noted -- Rules of Practice, Circular letters, etc:--

1. R.P.No.59 dated 23rd July 1885.
2. R.P.No.62 dated 3rd December 1885.
3. R.P.No.79 dated 24th December 1889.
4. R.P.No.86 dated 26th March 1896.
5. Chief Court Proceedings No.3696-721/67 dated 9th January 1897.
6. Paragraph 2 (iv) under statement of original civil suits in R.P. 147 dated 7-11-1910.
7. C.L. No.12 dated 25-9-1879.
8. " No.61 dated 21-7-1884.

- the purpose of*
1. For reckoning duration, suits, appeals or applications will be deemed to have been -- instituted on the date on which the plaint, memorandum of appeal or application is presented ex-

cept when these are returned for amendment before admission, in which case the duration should be reckoned from the date of admission after amendment.

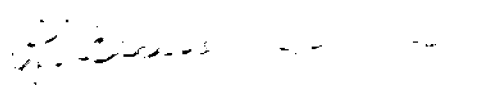
2. Sundays and holidays should not be excluded in computing the period of the pendency of a suit, appeal or proceeding.

3. Suits and appeals once dismissed or decreed, which are restored to file or revived or which have been remanded for re-decision should be entered separately in quarterly Judicial Statement No.1 under two separate headings " Re-filed" and "Remanded suits". Such cases should be treated as pending from the date of their first institution but in computing their duration the period, if any, during which the proceedings were suspended, in other words, the interval between the first disposal and subsequent revival of proceedings or remand should

be

be excluded. Only the periods from (1) first institution to first disposal and (2) the revival of proceedings to subsequent disposal, should be taken into account.

4. In the case of suits, appeals or proceedings held in abeyance under Order IX Rule 5, Civil Procedure Code, or ordered to lie over owing to the death of any party, under Order XXII, Rules 3 and 4 or for any other reason, whatsoever, the period during which they were held in abeyance should not be excluded in computing duration.


R E G I S T R A R.

TIN/2

MRU

SUBJECT.....

Diary No. of letter replied to 4525

Section 45

File No. 197-22

Serial No. 2

General and Revenue Secretariat

()
the 191 .

No. P/10284

Date of issue

18/4/23

To

Mr. D. C. S.
Mr. D. C. S.

Signed by

Mr. D. C. S.

With reference to the letter
No. C.1064/22-23 dated 3.3.23
requesting sanction for the issue
of certain additions to civil
rules of practice in the
calculation of the duration
of cases, I am directed to
request you to be good
enough to ^{intimate} inform the practice
prevailing in British India
over.

[Handwritten signature]

37870

5327 9
CHIEF COURT OF MYSORE

Bangalore, dated 21st April 1923.

Telegraphic }
Address. } "JUSTICE"

Roe No. 1064
mis

5197-22-3

FROM

A. SREENIVASARAGAVACHARI, Esq., B.A., B.L.,

Registrar, Chief Court of Mysore.

22 APR 1923

To

A. Matthan, Esq., B.A.,
Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

SIR,

I am directed to acknowledge the receipt of your letter No.P.10284/ Cts.197-22-2 dated 19th April 1923 requesting me to intimate the practice prevailing in British India in regard to the calculation of the average duration of cases.

2. In reply, I am to state that as far as can be ascertained, the practice in the Bengal Presidency is as follows :-- In calculating average duration, the time that the suit has been actually pending in the particular

SUBJECT.....

Diary No. of letter replied to.....

5317

Section

File No.

Serial No.

General and Revenue Secretariat

Proceedings of the Government of
His Highness the Maharaja of Mysore

, the

192

Date of issue....

28/5

Signed by.....

M. C. H.

May this be ..

- i Printed ?
- ii treated as a standing order ?
- iii published in the Gazette,
English Part ?
- iv translated ?
- v placed at the disposal of the press ?
- vi published in the Gazette,
Kannada Part ?

Read—

Letter no C 1064 of 3-3-1923
from the Regr. Chief Court.
for ordering for sanctions, revised
rules for regulating the
practice of the civil courts in
the matter of calculating the
duration of cases.

2. Letter dt 21-6-1923 from
the same office, intimating the
practice obtaining in the Bengal
Order Thereon No. and Madras Presidency.

order. 11185 The Revised rules are proposed

by the Chief Court sanctioned.

To

The Regr. Chief Court Madras

18-5-23

28/5

Th

Proceedings of the Government of His Highness the Maharaja
of Mysore.

Read. -

Letter No.C.1064 dated 3rd March 1923 from the Registrar, Chief Court, forwarding for sanction the accompanying revised rules for regulating the practice of the Civil Courts in the matter of calculating the duration of cases.

2. Letter dated 21st April 1923 from the same officer intimating the practice obtaining in the Bengal and Madras Presidencies.

Order No. *p 11185/CB.197-22-4*

Dated, Bangalore *28th* May 1923.

The revised rules proposed by the Chief Court are sanctioned.

C. Abanegnan

For Chief Secretary to Govt.

Q

To

The Registrar, Chief Court of Mysore.